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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1017 OF 1998

Shri Ravindra Ramchandra Gadgil ...Petitioner

v/s.

The State of Maharashtra & others ...Respondents

Mr. Amol Deshpande h/f P.B.Shaligram, Advocate for the Petitioner

Mr.A.P.Vanarse-AGP for Respondent Nos. 3 & 4
Mr. N.N.Gavankar for Respondent nos. 1 & 2.

CORAM : B.H.MARLAPALLE,J.
DATED : 23rd November, 2007

ORAL JUDGMENT

This petition under Article 227 of the Constituion, impugnes the order passed by the School Tribunal at Kolhapur in Contempt Application no. 30/1993, on 30-9-1997. The matrix of brief facts relevant to this petition is that the Petitioner was employed as an Assistant Teacher w.e.f. 12-6-1989 and he possessed the qualification of B.Sc. B.Ed. at the relevant time. He was issued notice of termination on 31-3-1990 and the same was challenged in Appeal no. 212 of 1990. The said Appeal was allowed on 16-9-1991 and the notice of termination dated 30-3-1990 was set aside. The management was directed to reinstate the petitioner to his original post and pay him difference of emoluments

from the date of his termination till he was reinstated. The Tribunal further directed the management to implement the order within 40 days and submit a report of compliance to that effect.

2. The Petitioner filed Contempt Application No. 30 of 1993 for execution of the order of reinstatement and backwages passed in Appeal No. 212/1990 on 16-9-1991 and the said application has been partly allowed by the impugned order dated 30-9-1997 passed by the School Tribunal. The management has been ordered to pay an amount of Rs. 40,850/- with interest thereon at the rate of 15% from 25-10-1992 till the amount is paid. It is admitted that in compliance of said order dated 30-9-1997, Petitioner has received the principle amount as well as the interest thereon. The grievance raised in this petition is regarding reinstatement.

3. The Tribunal noted in the impugned order that the allegations made by the Petitioner inviting action of penalty under section 30 of the MEPS Act, 1977 on the issue of reinstatement could not be accepted as the Petitioner admitted to have signed an affidavit in terms of compromise with the management on 25-10-1991 i.e.

within less than a month's period from the date of his earlier Appeal order passed by the Tribunal and by the said compromise terms he has given up his claim voluntarily on the issue of reinstatement and had agreed to accept only amount of backwages amounting to Rs. 40,850/-. Even before this Court it is not disputed that the Petitioner had voluntarily agreed and accepted the said compromise terms and signed the affidavit before the Special Executive Magistrate on 25-10-1991. On the face of this action of the Petitioner of having accepted the settlement with the management on the issue of reinstatement, the Tribunal is right in holding that he had given up his claim for reinstatement on his own and there was no case made out for penal action against him by invoking the provisions of Section 30 of the Act on the grievance of reinstatement. However, the Tribunal has accepted the case of the Petitioner that even though company has settled the dispute and he has stated that he received the amount but the amount was not paid and,therefore, the Tribunal directed the management to pay him Rs. 40,850/- with interest etc.
and such an amount has been received by the Petitioner.

4. The view taken by the Tribunal does not suffer from any error apparent on the face of record and,therefore, there is no case made out to call for interference under

Article 227 of the Constitution of India.

5. In the premises this petition fails and same is hereby dismsised. Rule discharged with no order as to costs.

[B.H.MARLAPALLE,J.]